



**ERRATA #1 and QUESTIONS AND ANSWERS  
to  
REQUEST FOR PROPOSALS  
for  
Three Historic-Style Specialty Retail Concessions  
at  
Old Town San Diego State Historic Park**

To All Prospective Bidders:

Attached are Errata #1 and Questions and Answers related to the Request for Proposals (RFP) for Three Historic-Style Specialty Retail Concessions at Old Town San Diego State Historic Park. Errata #1 reflects a change to the RFP Sample Concession Contract, Section 7 Insurance.

Also attached are the State's answers to the questions submitted by prospective proposers. The questions are presented exactly as submitted by the identified party.

The errata and other information are available on the website at [www.parks.ca.gov/concessions](http://www.parks.ca.gov/concessions). If you have any questions, please contact Donna Renner at (619) 688-3343 or [drenner@parks.ca.gov](mailto:drenner@parks.ca.gov).

Sincerely,

James A. Luscutoff, Chief  
Concessions, Reservations, and Fees Division

Attachments

cc: Ronilee Clark, Superintendent  
Donna Renner, Concession Specialist

State of California – The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
SAN DIEGO COAST DISTRICT  
OLD TOWN SAN DIEGO STATE HISTORIC PARK  
HISTORIC-STYLE SPECIALTY RETAIL CONCESSIONS  
REQUEST FOR PROPOSALS

## PROPOSER RFP QUESTIONS AND ANSWERS

The following are responses from the Department of Parks and Recreation (DPR) to questions submitted by December 21, 2009, in response to the Request for Proposals (RFP).

### Light-Freemans' San Diego House

*Question submitted by Blanca Brown:*

1. I would like to know what prior incumbent points I would be given. I developed the business plan which San Diego House of Coffee and Tea currently operates under. I managed the day to day business from 1997 up until June 2004.

**RESPONSE:** Per the RFP, Section 3, A. Proposer Identification, Incumbent Factor, the incumbent is defined as the individual, partnership, Limited Liability Company or corporation that *currently* operates the concession advertised in this RFP.

### Building at 2627 San Diego Avenue

*Questions submitted by Holiday Traditions, Inc.:*

1. What happens if your answers provoke more questions?

**RESPONSE:** Per the RFP, Section 2, RFP Content Questions, questions will be answered as clearly and completely as possible. If responses provoke additional questions that would impact a proposer's ability to respond to this RFP, the State may determine a need for additional responses.

2. Are we just left in limbo or will you answer them?

**RESPONSE:** Per the RFP, Section 2, RFP Content Questions, questions will be answered as clearly and completely as possible. If responses provoke additional questions that would impact a proposer's ability to respond to this RFP, the State may determine a need for additional responses.

3. Why is 2627 San Diego Avenue at 12% while the Johnson House and San Diego House are at 10%?

**RESPONSE:** The Public Resources Code (PRC) 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.



4. Why were the bids for Sessions Candle and Bailey McGuire at 10% and 9% instead of 12%?

**RESPONSE:** PRC 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.

5. Are we to expect the upcoming bids for Miner's Gems, Toler's Leather, and Alvarado Provisions will be at 12% or more?

**RESPONSE:** Rates for the upcoming project will be established based on a variety of factors including but not limited to gross receipts, location, business types, square footage, contract term and capital investments at the time the RFP is developed.

6. Why are all the stores not at the same % rent initially?

**RESPONSE:** PRC Code 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.

7. Why are the smaller base rents stores not at a higher % than the higher base rents?

**RESPONSE:** PRC 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.

8. Do you realize that you have given all these other stores an advantage over the store with the higher %?

**RESPONSE:** PRC 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.

9. Why doesn't every concession have the same structure on performance bonds?

**RESPONSE:** DPR requires that sureties range from two months' rent to one year's rent, depending on the level of risk and impact to the State should the concession fail. Concessions with five to ten year terms and annual rental payments less than \$30,000 shall post a surety instrument equivalent to six months' rent. Any concession with rental payments exceeding \$30,000 per year or annual sales exceeding \$350,000 per year shall post a surety equivalent to one year's rent.

10. Why should an incumbent be held to a year rent hold?

**RESPONSE:** Any concession with rental payments exceeding \$30,000 per year or annual sales exceeding \$350,000 per year shall post a surety equivalent to one year's rent in accordance with DPR policy and PRC 5080.18(d).

11. Why is there not a rainy day provision in the contracts? If the outdoor restaurants are closed, we should be able to close as well or at least by 3:00 p.m.

**RESPONSE:** The Sample Contract, Section 5 Use of Premises, item D lists a provision for adverse weather. Weather conditions have substantially different impact on outdoor restaurants than indoor retail sale businesses.

12. The awarded Sessions Candle Shop is at 10%, a rent reduction of 4%. Why does 2627 remain at 12%?

**RESPONSE:** PRC Code 5080.19 states that rents and other returns received from concessions shall reflect current commercial rental market conditions. There are many factors considered to establish rent, including but not limited to gross receipts, location, business type, square footage, contract term and capital investments.

13. Why is it only noted for a CPI increase, what happens if there is a CPI decrease?

**RESPONSE:** Per the RFP, Sample Contract, Section 4 RENT and Section 6 BONDS, CPI is defined as "changes in the Consumer Price Index (CPI)". Further, the RFP references the CPI as an "adjustment". CPI may increase or decrease.

14. Is there a time limit from the closing date till a contract is signed?

**RESPONSE:** The time frame between the closing date and contract award is dependent on how quickly the State can accomplish the reference checks, review the proposals, convene an award board and secure the Director's approval. Once a contract is awarded, however, the RFP states under section 2.3 Contract Execution – Failure to Sign/Deliver Contract that "a failure of the successful proposer to sign and deliver the contract within thirty (30) days of receipt may be treated as a refusal to execute, if the State so elects. The State may retain the Proposer Bond and select the next Best Responsible Proposal.

15. How do we find out our incumbent factor?

**RESPONSE:** Incumbent Preference points are assigned based on the criteria listed in the RFP in section 3.2 Proposal Evaluation Criteria under Incumbent Preference (page 24).

16. Has the person who selected what they want done to 2627 San Diego Avenue consulted the Maintenance Department about this building?

**RESPONSE:** Yes.



17. Regarding item 1 cut and install glass. Do you know that there are iron bars set in the bricks between the bottom and top of the openings? District Superintendent Navarro thought it looked too much like a prison and wanted them closed off.

**RESPONSE:** Yes. Please note page 19, item B. Facility Plan which states "a maximum of fifteen (15) points will be awarded based upon the degree to which the proposal addresses each of the following elements of the Facility Improvement Plan".

18. Do you know that there are only 2 openings? 2 ft x 2 ft, that will open into the store, which are not being used.

**RESPONSE:** The question does not contain sufficient information to respond.

19. Do you know all the other openings are covered by the wall?

**RESPONSE:** The question does not contain sufficient information to respond.

20. It is our understanding that any furnishing item not affixed belongs to us. Is this RFP attempting to change that?

**RESPONSE:** Facility improvements required within this RFP shall become property of the State.

21. Are you sure archeologists want a French drain?

**RESPONSE:** Yes.

22. How far is the ceiling to drop or is that up to the bid winner?

**RESPONSE:** This detail is up to the proposer but must meet Accessibility Code by providing a minimum 6'8" clearance from floor to ceiling or bottom of light fixtures.

23. If the drop is more than 1 ft., do you know you will start to encounter a problem with the lights and openings?

**RESPONSE:** This is a design issue and is up to the proposer to determine.

24. Is this copper or something that looks like copper?

**RESPONSE:** The RFP, page 20, states the proposer shall propose to "install a period appropriate drop ceiling. Suggestions may include tin or copper squares or a State Fire Marshal approved treated muslin".

25. Do you realize how heavy copper and tin are?

**RESPONSE:** Yes.

26. We had this as a project once and were told the ceiling would not support it. Has that changed?

**RESPONSE:** The RFP, page 20, states the proposer shall propose to "install a period appropriate drop ceiling. Suggestions may include tin or copper squares or a State Fire Marshal approved treated muslin".

27. Do you know the store middle develops condensation?

**RESPONSE:** No. Such a condition would be the maintenance obligation of the concessionaire under the terms of their contract.

28. We play guitar, piano, and dulcimer music mainly, mostly all instrumental, and feel these should be allowed since they are time period. Is this true?

**RESPONSE:** Yes.

29. Many of our artists are either San Diego, California, or Mexican artists. Are we going to be able to carry these artists?

**RESPONSE:** Yes as long as period appropriate instruments are played and the instruments are not "electrified".

30. If you are enforcing music listening ranges and/or type of music, why are the Peruvians allowed to play so loud at Wallach-Goldman?

**RESPONSE:** This is not a State approved activity.

31. What constitutes construction? Is it moving dirt, or dollar amount or?

**RESPONSE:** Any alteration to the real estate/real property.

32. Bonds cost money. Why do we require a bond if we have paid our construction costs every other year without any problems?

**RESPONSE:** The Construction Payment and Performance bonds are bonds which the licensed contractor secures prior to commencement of work. These bonds protect the Concessionaire and the State from damages by the contractor walking off the job or not paying material suppliers and sub-contractors.

33. Does the State realize that Captain Fitch's is both a Federal trademark and a California State servicemark?

**RESPONSE:** This has been brought to the State's attention. The RFP, Sample Contract, and all advertisements have identified the premises as "building located at 2627 San Diego Avenue" which indicates the State has not used this trade/service mark. Please reference the RFP, current contract language, page 78, and section 26 Intellectual Property Rights which defines what is considered proprietary to the State.

34. We have created many products and have many waiting for a contract. Does the State of California think they will take over our products at some point in time?

**RESPONSE:** No.



35. If we publish a book on Old Town, does the State of California think it is going to belong to them?

**RESPONSE:** Please refer to Sample Contract, section 26 Intellectual Property Rights which defines what is considered proprietary to the State.

36. Does the State of California realize most of the items we have created and are creating are covered by either copyright, servicemark, or trademark?

**RESPONSE:** Please refer to Sample Contract, section 26 Intellectual Property Rights which defines what is considered proprietary to the State.

37. Does the State of California realize we will not assign right or title to them per Intellectual Property Rights?

**RESPONSE:** Please refer to Sample Contract, section 26 Intellectual Property Rights which defines what is considered proprietary to the State.

38. We wish to clarify that the only furnishing we would be leaving is the front counter. Is this true?

**RESPONSE:** If the counter is affixed to the real property, it is considered a capital investment and would remain. In addition, any State Park property that existed on the premises under the current contract would remain.

39. Is the scope of building maintenance changing? Presently it is fifteen feet from your building.

**RESPONSE:** The RFP, Sample Contract, Section 19 Housekeeping, Maintenance, Repair and Removal, page 72, defines this distance as fifty (50) feet. If that distance is not appropriate to the specific premises, it will be adjusted to a lesser distance at the time of contract award.

40. Regarding maintenance on 2627, we will not be required to paint the brick exterior, will we?

**RESPONSE:** The RFP Sample Contract, Exhibit I, Maintenance Schedule requires *repainting* exterior of building and all signage at a 5-year interval. The existing condition of this brick building is not painted, and therefore it is not subject to "*repainting*". The signage and any painted exterior features would need to be repainted.

41. HVAC service should only have to be done quarterly. Is that correct?

**RESPONSE:** The RFP Sample Contract, Exhibit I, Maintenance Schedule requires some services to be provided monthly and others quarterly for the HVAC.

42. Finally, why can't all of the facility improvements be deducted from our rent? Some of these projects will cost a considerable amount of money.

**RESPONSE:** The minimum rent considers facility maintenance obligations of the concessionaire.

43. Is the State of California keeping in mind the current economic conditions?

**RESPONSE:** Yes.

44. What happens if no one bids on these projects?

**RESPONSE:** PRC 5080.16(a) states that if the bid process fails to produce a best responsible bidder, the Director may determine that it is in the State's best interest to negotiate a contract, including terms and conditions.

45. Did you know that the only way to flame retard muslin is with Trisk?

**RESPONSE:** The State believes there are other alternatives.

46. Did you know that Trisk is a known cancer causing agent?

**RESPONSE:** This is not a required product by the State.

47. How come the person that suggested this on facility improvements did not know this?

**RESPONSE:** The State did not specify any flame retardant products. It is the proposers' responsibility to determine and propose products and materials that meet current health and safety requirements.

48. Are we able to write in our proposal what we feel is better as opposed to what you have?

**RESPONSE:** It is the proposers' responsibility to determine and propose products, materials, and services that meet or exceed the RFP criteria.

49. Are we still in the limits of pass/fail if we have some of our goods at 12% and others at a lesser %?

**RESPONSE:** Assuming this question is in regards to the minimum rental offer, please refer to the RFP Section 3 The Proposal, D. Rental Offer on page 22 states "for the purpose of this RFP, the Rental Guarantee must be at least the Guaranteed Annual Rent and Percentage of Gross Receipts must be at least the Percentage Rent as listed on the table". The table lists 2627 San Diego Avenue as a Guaranteed Annual Rent of \$30,000 and Percent Rent at 12% of gross receipts. No lesser amounts will be accepted.

50. A three point question regarding drop ceilings:

- a. Is the object of the drop ceiling to cover the track lighting grids?
- b. Do you realize a drop ceiling will be upwards of \$40,000.00?
- c. Why would it not be sufficient to take out the track lighting grid and repair/repaint over it?



**RESPONSE:** Please refer to page 19 in the RFP, item B. Facility Plan which states “a maximum of fifteen (15) points will be awarded based upon the degree to which the proposal addresses each of the following elements of the Facility Improvement Plan”. In the event this aspect of the improvements is proposed differently than described in the RFP, points shall be assigned accordingly.

51. What stores in the park have an approved counter?

**RESPONSE:** The approved counters in the park that may be used as a proper example are located at Tinsmith, Gum Saan, Alvarado Provisions, Wells Fargo Museum, Racine & Laramie, and Toler’s Boot & Shoe.

52. Do you have a list of costume makers you could provide?

**RESPONSE:** Please reference Attachment 1 – RFP titled References for Historic-Style Concessions in Old Town San Diego State Historic Park. This list of references includes Historic Clothing and Fabrics with a reference to sewing patterns titled Past Patterns. There is a telephone number and website provided. A men’s clothing site called Gohn Brothers Clothing is also listed. As far as a maker or tailor, the State does not provide recommendations.

53. May facility improvements be spread over the life of the contract?

**RESPONSE:** Please refer to RFP, Section 3, item B Facility Plan on page 19 which requires proposers to include an implementation timeline for facility improvements. As result of the Tucker Lawsuit, any improvements related to ADA compliance must be completed within the first year of the execution of a new contract.

54. Is a certified building inspector a member of the State staff or is this something else a Concession will have to pay for?

**RESPONSE:** The RFP Sample Contract, Exhibit I, Maintenance Schedule calls for an annual inspection of the building by a certified building inspector and a written report provided to the District Superintendent thirty (30) days prior to the end of each contract year. This is the responsibility of the Concessionaire and is not a State staff member.

55. We are already waxing and polishing the store, will you define resurface the floor?

**RESPONSE:** Resurfacing is a process that would include sanding the floor down to a smooth surface, possibly re-staining, and then re-waxing.

56. Are our counters to be ADA and kid friendly, so that these people can put something down on the counter, instead of looking up?

**RESPONSE:** Please note page 20 in the RFP, under item B. Facility Plan for 2627 San Diego Avenue which states “it is the State’s expectation that any counters, casework, furnishings, etc., will be antiques or constructed per the Retailer’s Reference Guide to ensure the integrity of the historical time period and provide for *accessibility*.”

State of California – The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION

**ERRATA #1**  
to  
**Sample Contract**  
for  
**Three Historic-Style Specialty Retail Concessions**  
at  
**Old Town San Diego State Historic Park**

**Change to the Sample Contract**

1. Page 60, Section 7 INSURANCE, item A is changed to read as follows:

1) Commercial Liability Insurance. Concessionaire shall maintain general liability on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with \$2,000,000 annual policy aggregate. The policy shall include coverage for liabilities arising out of Premises, operations, independent contractors, products, completed operations, personal and advertising injury.

2) Automobile Liability. Concessionaire shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of motor vehicles including owned, hired and non-owned motor vehicles used by Concessionaire in the conduct of business under this Contract.

3) Workers' Compensation Insurance. Concessionaire shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of this contract. Employer's liability limits of \$1,000,000 are required.

4) Property Insurance. Concessionaire shall provide property coverage for damage caused by fire, vandalism or natural disaster with limits based on the estimated replacement value of facilities occupied by Concessionaire - Johnson House (\$161,700) 2627 San Diego Ave (\$404,800) Light-Freemans' San Diego House (\$174,240).